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Massachusetts House of Representatives  
State House  
24 Beacon Street, Room 540  
Boston, MA 02133

Dear Representatives:

I am writing today, as a constituent of the Commonwealth, to express my opposition to certain provisions contained in Bill S.2800, specifically the elimination of qualified immunity for law enforcement officers.

To provide some background, I am a retired police chief and currently serve as a professor of criminal justice and as a bar advocate who represents indigent criminal defendants. As such, I feel that I have a unique perspective of our criminal justice system and have the education and experience to view such a bill from many different perspectives

I acknowledge that law enforcement officers hold a great degree of power to deprive individuals of life and liberty and I acknowledge that there are times that law enforcement intentionally and unintentionally abuse their authority and deprive individuals of their constitutional rights. I also feel that a large majority of law enforcement officers act with good faith and to their best of their ability given their education, training, and experience.

With that said, I do not feel that eliminating qualified immunity to a proper or effective solution to this societal issue.

First, law enforcement officers are not lawyers and they do not receive sufficient legal education. Even lawyers, who have the benefit of extensive education and time to conduct legal research cannot possibly familiarize themselves with all of the various interpretations of the laws and the constitution. Eliminating qualified immunity would create an expectation that officers know all of the countless interpretations of the law and constitution and know them at a split-second while, at the same time, experiencing stress and danger. This is an unrealistic expectation.

Second, eliminating qualified immunity would result in staffing issues for law enforcement agencies as it would deter otherwise qualified candidates from applying for the position. The hiring standards for law enforcement officers is currently a very high standard and agencies are already having difficulty securing qualified candidates. Creating a smaller candidate pool would cause more hiring challenges which would ultimately lead to lesser quality police recruits. In addition, many experienced police officers would seek other employment.

Third, eliminating qualified immunity is simply not fair to the officers and their families. Qualified immunity only protects officers when they act in good faith and in accordance with the laws and procedure which a reasonable officer is aware. When considering whether a reasonable officer is aware of an existing law or procedure, a court will look to what a reasonable officer in that geographical area should have known. Law enforcement officers in Massachusetts are arguably the most highly educated and best trained officers in the world. This sets a high standard as it is; Creating a higher and unachievable standard by eliminating qualified immunity is quite frankly unreasonable. Law enforcement

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officers work very hard each and every day working off hours, overtime, holidays, etc. Many times, officers are working while being very tired, stressed, and exposed to danger. Holding them civilly accountable for errors made in good faith is not fair to them or their families.

Fourth, there are many other avenues to improve law enforcement accountability which have not been explored. For example, where a defense attorney files a motion to suppress unlawfully obtained information, that information is not generally relayed to the police chief who is in a position track patterns of behavior, order remedial training, or take disciplinary action. I feel that a better system of communication and problem resolution between state agencies is a more appropriate remedy to police misconduct than court action. There are many other available strategies that I would be happy to discuss if given the opportunity.

Finally, eliminating qualified immunity would likely cause the courts to be flooded with civil complaints, some of which are justified and some of which are frivolous. This would overwhelmingly burden the court system. Defense attorney's, especially bar advocates, would, by default serve as conduits for initiating such civil proceedings when they file motions to suppress evidence. This is not the intention of such motions.

In summary, I care deeply about my community, law enforcement, our constitution, and our criminal justice system. Eliminating qualified immunity would not improve law enforcement, but would likely deteriorate the profession to the point where social issues become more prevalent.

Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to be 'LGC'.

Leonard G. Crossman